

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X		
SHIQIANG GAO , <i>on his own behalf and on behalf of</i>	:	USDC SDNY
<i>other similarly situated</i> , and JIANMIN PENG ,	:	DOCUMENT
	:	ELECTRONICALLY FILED
Plaintiffs ,	:	DOC#: _____
	:	DATE FILED: <u>10/5/2020</u>
	:	
	:	1:18-CV-06439 (ALC) (SN)
-against-	:	<u>ORDER</u>
	:	
UMI SUSHI, INC., ET AL. ,	:	
	:	
Defendants.	:	
----- X		

ANDREW L. CARTER, JR., District Judge:

By an Opinion and Order dated August 5, 2020, this Court granted summary judgment that Defendants Sumiata Ong and Ai Zhen Zheng are not Plaintiffs' employers within the meaning of the Fair Labor Standards Act or the New York Labor Law. ECF 74. It dismissed the claims arising under those laws as to Ong and Zheng. The summary judgment briefing did not specifically address the remaining count in the complaint, Count X, for breach of implied contract relating to unreimbursed expenses. The Court therefore ordered Plaintiffs to show cause why, in light of the lack of allegations supporting a conclusion that Ong and Zheng are Plaintiffs' employers, the breach of implied contract count should not also be dismissed as to them.

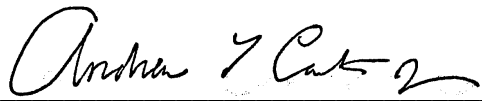
On September 6, 2020, Plaintiffs filed a response to the Court's order to show cause. ECF No. 75. Plaintiffs' response does not offer any facts tending to show that Ong and Zheng entered an implied contract with Plaintiffs. In light of the Court's conclusion in its August 5, 2020 Opinion and Order that Ong and Zheng are not Plaintiffs' employers, and Plaintiffs' failure to offer any

additional facts in support of the implied contract claim against these defendants, Count X is hereby DISMISSED as to Ong and Zheng.

The Clerk of Court is respectfully directed to terminate Defendants Ong and Zheng from the case. The Parties are directed to file a join status report regarding how they would like to proceed with the remainder of the case by October 19, 2020.

SO ORDERED.

Dated: **October 5, 2020**
 New York, New York

A handwritten signature in black ink, reading "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge